

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

CHRISTOPHER BARBOUR,)	
)	
Petitioner,)	
)	
v.)	No. 2:01-cv-612-ECM
)	
JOHN HAMM, Commissioner,)	
Department of Corrections, et al.,)	
)	
Respondents.)	

**RESPONDENTS' MOTION FOR LEAVE
FOR ADDITIONAL DISCOVERY**

Come now Respondents, by and through the Attorney General for the State of Alabama, and file this request for additional discovery.

1. Rule 6(a) of the Rules Governing Section 2254 provides that this Court may, for good cause, authorize discovery to aid developing facts to determine whether an evidentiary hearing is necessary. (Docs. 202, 224.) *See generally Bracy v. Gramley*, 520 U.S. 899, 908–09 (1997) (“[W]here specific allegations before the court show reason to believe that the petitioner may, if the facts are fully developed, be able to demonstrate that he is . . . entitled to relief, it is the duty of the court to provide the necessary facilities and procedures for an adequate inquiry.”) (quoting *Harris v. Nelson*, 394 U.S. 286, 300 (1969)).

2. On January 31, 2003, Barbour filed a motion requesting “additional discovery and disclosure of expert witness” Dr. Charles R. Honts. (Doc. 322.) In his motion, Barbour asserts that Dr. Honts opined that “the polygraph test results [from Barbour’s 1992 polygraph] show that [he] had a clear truthful score.” (*Id.* at 5.) Barbour argues that “misrepresentations about polygraph-test results were made to [him] just prior to his custodial statements” and used as a “coercive tactic to elicit a false confession[.]” (*Id.*) As Barbour acknowledges in his motion, Dr. Honts’ opinion is directly related to the “false confession” aspect of Barbour’s gateway actual innocence claim. (*Id.*)

Wherefore, Respondents respectfully request Barbour provide a copy of Dr. Honts’ resume or CV and any reports by Dr. Honts, as well as supporting data and/or documentation relied on by Dr. Honts, pertaining to this matter within thirty days. Additionally, Respondents request that, once such reports and data/documentation are provided, Respondents be granted leave of an additional thirty days, or until April 3, 2023, to depose Dr. Honts.

Respectfully submitted,

Steve Marshall (MAR083)

Attorney General

By:

s/Audrey Jordan

Audrey Jordan

Assistant Attorney General

CERTIFICATE OF SERVICE

I hereby certify that on this 7th day of February 2023, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will provide notification of such filing to the following CM/ECF participants: **George Kendall, Jenay Nurse, Samuel Spital, Nicola Cohen, and Miriam Gohara.**

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